

APPEAL NO. 040084
FILED MARCH 8, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 15, 2003. With respect to the single issue before her, the hearing officer determined that the respondent (claimant) is entitled to change treating doctors from Dr. MM to Dr. PM pursuant to Section 408.022. The appellant (carrier) asserts error in the determination that the claimant was entitled to change treating doctors. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

Section 408.022(c) provides a list of criteria for approving a change of treating doctor. A change to secure a new medical report is prohibited. Section 408.022(d). *See also* Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.9 (Rule 126.9). The carrier contends on appeal that the hearing officer erred in finding that the claimant was entitled to change treating doctors because he requested the change after Dr. MM released him to return to work and certified him at maximum medical improvement and assigned a one percent impairment rating (IR). The hearing officer found that the claimant requested a change of treating doctor from Dr. MM to Dr. PM because "a conflict existed between [the claimant] and [Dr. MM] that jeopardized or impaired the doctor-patient relationship." The hearing officer also specifically found that the "request to change doctors from [Dr. MM] to [Dr. PM] was not motivated by an attempt to obtain a new medical report or [IR]." Based on these findings, the hearing officer concluded that the claimant "is entitled to change treating doctors to [Dr. PM] under [Section] 408.022 of the Act." The hearing officer was persuaded that the change was not made to avoid being released to return or to secure another IR and she was acting within her province as the sole judge of the evidence in so deciding. Because the hearing officer was persuaded that there was a conflict between the claimant and Dr. MM such that the doctor-patient relationship was jeopardized or impaired, she did not err in determining that the claimant was entitled to a change of treating doctor in that that reason is specifically recognized as one of the criteria for permitting a change of treating doctor.

The hearing officer's decisions and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge